

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

JOSHUA SPRIESTERSBACH,)	1:21-CV-00456-LEK-RT
)	
Plaintiff,)	
)	AMENDED RULE 16 SCHEDULING
vs.)	ORDER
)	
STATE OF HAWAII, CITY AND)	
COUNTY OF HONOLULU,)	
DEPARTMENT OF PUBLIC SAFETY,)	
OFFICE OF THE PUBLIC)	
DEFENDER, NIETZSCHE LYNN)	
TOLAN, MICHELLE MURAOKA,)	
LESLIE MALOIAN, JASON BAKER,)	
SETH PATEK, HAWAII STATE)	
HOSPITAL, ALLISON GARRETT,)	
JOHN/JANE DOES 1-20,)	
)	
Defendants.)	
)	

AMENDED RULE 16 SCHEDULING ORDER

Pursuant to Fed. R. Civ. P. 16 and LR 16.2, a scheduling conference was held on September 27, 2023, before the Honorable Rom Trader, United States Magistrate Judge. Appearing telephonically at the conference were Alphonse A. Gerhardstein, Jennifer Louise Brown, John Washington, Kendall J. Moser, Richard Duncan Lewallen, Robert M. Kohn, Paul S. Aoki, Justine Tanya Myroslava Hura, and Lois H. Yamaguchi.

Pursuant to Fed. R. Civ. P. 16(e) and LR 16.3, the Court enters this scheduling conference order:

TRIAL DATE:

1. **JURY** trial in this matter will commence before the Honorable Leslie E. Kobayashi, United States District Judge on August 26, 2024, at 9:00 a.m.

AMENDING PLEADINGS:

2. All motions to join additional parties or to amend the pleadings shall be filed by **CLOSED**.

EXPERT WITNESSES:

3. Each party shall make the disclosures regarding expert witnesses or other witnesses with specialized knowledge as required by Fed. R. Civ. P. 26(a)(2) according to the following schedule:

- a. All plaintiffs shall comply by December 18, 2023.
- b. All defendants shall comply by February 16, 2024.

Rebuttal disclosures to a witness identified by another party pursuant to subparagraphs a and b hereinabove shall occur within thirty (30) days after the disclosure by the other party.

DISCOVERY:

4. Unless and until otherwise ordered by the Court, the parties shall follow the discovery plan agreed to by the parties herein pursuant to Fed. R. Civ. P. 26(f).

5a. Pursuant to Fed. R. Civ. P. 16(b)(3) and LR 16.2(a)(6), the discovery deadline shall be March 29, 2024. Unless otherwise permitted by the Court, all discovery pursuant to Federal Rules of Civil Procedure, Rules 26 through 37 inclusive must be completed by the discovery deadline.

b. Unless otherwise permitted by the Court, all discovery motions and conferences

made or requested pursuant to Federal Rules of Civil Procedure, Rules 26 through 37 inclusive of LR 26.1, 26.2, and 37.1 shall be filed no later than February 28, 2024.

MOTIONS:

6. Dispositive motions shall be filed by March 29, 2024.
7. All other non-dispositive motions including any motion requiring an evidentiary hearing (including *Daubert* motions) shall be filed by May 28, 2024. This deadline does not include motions in limine or discovery motions.
8. Motions in limine shall be filed by July 29, 2024.

Any opposition memorandum to a motion in limine shall be filed by August 5, 2024.

SETTLEMENT:

9. A Telephonic settlement conference shall be held on May 28, 2024, at 10:00 a.m. before the Honorable Rom Trader, United States Magistrate Judge.
10. Each party shall deliver to the presiding Magistrate Judge a confidential settlement conference statement by May 20, 2024. The parties are directed to LR 16.5(b) for the requirements of the confidential settlement conference statement.
11. The parties shall exchange written settlement offers and meet and confer to discuss settlement before the date on which settlement conference statements are due.

TRIAL AND FINAL PRETRIAL:

12. A Telephonic final pretrial conference shall be held on July 16, 2024, at 10:00 a.m. before the Honorable Rom Trader, United States Magistrate Judge.
13. Pursuant to LR 16.4, each party herein shall serve and file a separate final pretrial statement by July 9, 2024.
14. By July 29, 2024, the parties shall pre-mark for identification all exhibits and

shall exchange or, when appropriate, make available for inspection all exhibits to be offered, other than for impeachment or rebuttal, and all demonstrative aids to be used at trial.

15. By August 5, 2024, each party shall serve and file a final comprehensive witness list indicating the identity of each witness that the party will call at trial and describing concisely the substance of the testimony to be given and the estimated time required for the testimony of the witness on direct examination.

16. The parties shall make arrangements to schedule the attendance of witnesses at trial so that the case can proceed with all due expedition and without any unnecessary delay.

17. The party presenting evidence at trial shall give notice to the other party the day before of the names of the witnesses who will be called to testify the next day and the order in which the witnesses will be called.

18. The parties shall meet and confer regarding possible stipulations to the authenticity and admissibility of proposed exhibits by August 5, 2024.

19a. By August 5, 2024, the parties shall serve and file statements designating excerpts from depositions (specifying the witness and page and line referred to) to be used at trial other than for impeachment or rebuttal.

b. Statements counter-designating other portions of depositions or any objections to the use of depositions shall be served and filed by August 12, 2024.

20. By August 12, 2024, each party shall serve and file a trial brief on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the party's position and the supporting arguments and authorities.

21. By August 12, 2024, the parties shall file any objections to the admissibility of exhibits. Copies of any exhibits to which objections are made shall be attached to the

objections.

22a. The original set of exhibits and two copies (all in binders) and a list of all exhibits shall be submitted to the Court by August 19, 2024.

b. A thumb drive of all exhibits shall be submitted to the Court by August 19, 2024.

23. The parties shall prepare in writing and submit to the Court any special voir dire inquiries they wish the judge to ask the jury panel.

24. The parties shall confer in advance of trial for the purpose of preparing an agreed upon special verdict form, if a special verdict form is to be requested. The agreed upon special verdict form shall be submitted to the Court. In the event of disagreement, the parties shall submit all proposed special verdict forms to the Court.

25. The parties shall confer in advance of trial for the purpose of preparing an agreed upon concise statement of the case that may be read by the trial judge to the jury during voir dire. The agreed upon concise statement of the case shall be submitted to the Court. In the event of disagreement, the parties shall submit all proposed concise statements of the case to the Court.

26. Jury instructions shall be prepared in accordance with LR 51.1 and submitted to the Court.

27. All submissions to the Court required by paragraphs 23, 24, 25 and 26 shall be made by August 12, 2024.

28. A final pretrial conference shall be held on August 12, 2024, at 10:00 a.m. in Aha Nonoi before the Honorable Leslie E. Kobayashi, United States District Judge.

29. (RESERVED)

OTHER MATTERS:

Court sets Telephone Conference for December 14, 2023, at 8:30 a.m. before Magistrate Judge Trader. No submissions required.

For all telephonic hearings before Magistrate Judge Rom A. Trader, the parties and other participants must call-in at least five (5) minutes prior to the scheduled start time of the conference. Call-in instructions are below:

Dial in number: 1-833-568-8864 (toll-free).

Meeting ID: 161 5641 6035.

The Confidential Settlement Conference statements shall be delivered (one-set, hard copy) to the Clerk's Office and an electronic copy emailed to Trader_Orders@hid.uscourts.gov.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, September 27, 2023.



A handwritten signature in blue ink that appears to read "Rom A. Trader".

Rom A. Trader
United States Magistrate Judge

Joshua Spiestersbach vs. State of Hawaii; 1:21-CV-00456-LEK-RT; Amended Rule 16 Scheduling Order